

Atlanta  
Beijing  
Brussels  
Hong Kong  
London  
Los Angeles  
Milan  
New York  
Orange County  
Palo Alto  
Paris  
San Diego  
San Francisco  
Shanghai  
Stamford  
Tokyo  
Washington, DC

(202) 551-1724  
johngriffithjohnson@paulhastings.com

September 2, 2005

25118.74631

**FILED BY ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals II  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: **MB Docket No. 03-15 -- Digital Television Station KPTM-DT, Omaha, Nebraska (Facility I.D. No. 51491); Request for Further Temporary Relief from July 1, 2005 "Use-It-or-Lose-It" Deadline for Completion of Construction of Maximized Transmitting Facilities Authorized in Outstanding Modified Construction Permit in File No. BMPCDT-20050512AAY**

Dear Madame Secretary:

We represent KPTM (TV) License, LLC ("License"). License holds a license from the Commission that authorizes License to operate primary analog UHF commercial television broadcasting station KPTM (TV) on NTSC Channel 42 in Omaha, Nebraska (File No. BRCT-19980130KV, granted on June 8, 1998). License also holds an outstanding construction permit from the Commission, as extended and modified (File No. BPCDT-19991101AGZ, granted on January 24, 2001, as extended by File Nos. BEPCDT-20020301AFU, granted on June 7, 2002, and BEPCDT-20021008AAN, granted on November 26, 2002, and as modified by File No. BMPCDT-20050512AAY, granted on July 5, 2005), that authorizes License to build and operate primary digital UHF commercial television broadcasting station KPTM-DT on DTV Channel 43 in Omaha. Stations KPTM (TV) and KPTM-DT bear the Commission's Facility Identification Number 51491.

Station KPTM-DT is affiliated with the Fox Television Network and Omaha is among the Top 100 television markets. Hence, by July 1, 2005, Station KPTM-DT was required, pursuant to the Commission's *Report and Order in MB Docket No. 03-15, Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd. 18,279 (2004), to have completed construction of, and to be operating with, the so-called "maximized" transmitting facilities for the station that are specified in the formerly-outstanding construction permit in File No. BPCDT-19991101AGZ, under penalty of

Marlene H. Dortch  
September 2, 2005  
Page 2

forfeiting future protection from interference to a portion of the station's signal coverage area that would be served by such facilities (i.e., "use-it-or-lose-it").

By our letter to the Commission that was filed using the Commission's Electronic Comment Filing System ("ECFS") on July 1, 2005 (copy attached), we requested temporary relief from the July 1, 2005 "use-it-or-lose-it" deadline for the completion of the construction of Station KPTM-DT's maximized transmitting facilities. To the best of our knowledge, the Commission has not yet acted upon our July 1 request.

Our July 1 request was submitted in accordance with the Commission's *Public Notice*, DA 05-1636, released June 15, 2005, entitled, "*DTV Channel Election Issues – Compliance with the July 1, 2005 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline*" (the "*June 15 Public Notice*"). Our July 1 letter requested that the "use-it-or-lose-it" deadline for the completion of the construction of Station KPTM-DT's maximized transmitting facilities be extended until sixty (60) days following the Commission's grant of the later-granted of two then-pending applications (File Nos. BMPCDT-20050512AAY and BPCT-20050512ADD, respectively) for a modified construction permit for Station KPTM-DT and for a construction permit for Station KPTM (TV).

The Commission granted License's application for a construction permit to modify Station KPTM (TV)'s licensed transmitting facilities on July 1, 2005 (File No. BPCT-20050512ADD) and granted License's application for a modified construction permit for Station KPTM-DT's transmitting facilities on July 5, 2005 (File No. BMPCDT-20050512AAY). Hence, the sixtieth (60<sup>th</sup>) day from the date of the grant of the later-granted of those two applications will be tomorrow (September 3, 2005).

By this letter, we are respectfully requesting further temporary relief from the July 1, 2005 "use-it-or-lose-it" deadline, in order that Station KPTM-DT be given until November 1, 2005 in which to complete the construction authorized in the modified construction permit in File No. BMPCDT-20050512AAY or forfeit protection from future interference to portions of the area that would be covered by the facilities specified in that modified construction permit.

All of the equipment that is needed to complete the installation of the modified transmitting facilities for Station KPTM-DT authorized in File No. BMPCDT-20050512AAY has been on site since May 20, 2005. The combination antenna for Stations KPTM (TV) and KPTM-DT was installed on the tower on August 26, 2005. The principal reason why License has been unable to complete the installation has been the weather. License and its installation contractor, Dielectric, estimate that they will need five (5) working days to remove the current Station KPTM (TV) waveguide and seven (7) working days to install the new eight-inch transmission line. Hence, License is not far away from being able to complete the installation of Station KPTM-DT's maximized transmitting facilities, and would have done so by now but for inclement weather. It is

Marlene H. Dortch  
September 2, 2005  
Page 3

believed that such installation can be completed prior to November 1; however, out of an abundance of caution, and in view of the fact that License is at the mercy of unpredictable weather patterns in Eastern Nebraska that are common in late summer and early fall, we are respectfully asking that the "use-it-or-lose-it" deadline be extended to November 1.

In the event that the Commission or its staff should have any questions pertaining to this request, kindly refer them to License's undersigned counsel.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Griffith Johnson, Jr.", with a stylized flourish at the end.

John Griffith Johnson, Jr.  
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

cc: Shaun Maher (via electronic mail to [shaun.maher@fcc.gov](mailto:shaun.maher@fcc.gov))